

SEVENTY-SECOND DAY

(Thursday, June 5, 1941)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Stevenson.

The roll was called, and the following Senators were present:

Aikin	Mauritz
Beck	Metcalf
Brownlee	Moffett
Chadick	Moore
Cotten	Ramsey
Fain	Shivers
Formby	Smith
Graves	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York
Martin	

Absent—Excused

Hazlewood Spears

A quorum was announced present. The invocation was offered by the Chaplain.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

Leaves of Absence Granted

Senator Spears was granted leave of absence for today on account of important business, on motion of Senator Graves.

Senator Hazlewood was granted leave of absence for today on account of illness, on motion of Senator Metcalfe.

Reports of Standing Committees

Senator Kelley submitted the following report:

Austin, Texas,
June 5, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Education, to whom was referred

H. B. No. 1036, A bill to be entitled "An Act validating all consolidated rural high school districts having a scholastic population of not less than two hundred and fifty (250) and

not more than seven hundred (700), according to the last preceding scholastic enumeration, and located in counties having a population of not less than thirty-one thousand, one hundred twenty (31,120), and not more than thirty-one thousand, one hundred thirty (31,130) inhabitants, according the last preceding Federal Census, created by an act of the County Board of Trustees out of a district or districts which had theretofore been a consolidated school district or districts; validating all elections, the levying of taxes, bond issues and taxes levied therefor, and all bonds voted but not issued; providing that this Act shall not apply to any districts now involved in tax litigations; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass with Committee Amendment No. 1, and be not printed.

KELLEY, Chairman.

Senator Moore submitted the following report:

Austin, Texas,
June 3, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. C. R. No. 123, being a resolution setting aside the second Sunday in May of each year as Mother's Day and the second Sunday in June of each year as Father's Day.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

MOORE, Chairman.

Senator Beck submitted the following reports:

Austin, Texas,
June 5, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to whom was referred

S. J. R. No. 20, Proposing an amendment to the Constitution of the State of Texas by amending Section 33 of Article 16, of the Constitution of Texas so as to permit the accounting officers of

this State to draw and pay warrants for salaries to officers of the United States Army or Navy who are assigned to duties in State institutions of higher education.

Have had the same under consideration, and we desire to report it back to the Senate with the recommendation that it do pass and be printed.

BECK, Chairman.

Austin, Texas,
June 4, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to whom was referred

S. J. R. No. 19, A joint resolution proposing the adoption of Section 16 of Article 7 of the Constitution allocating to the Agricultural and Mechanical College of Texas, after deducting the amount necessary to defray expenses of administration except those in connection with grazing leases, one-third of the income from the Permanent University Fund except income from grazing leases; providing that such revenue shall be used or pledged for the sole purpose of acquiring permanent improvements for said College, authorizing the Board of Directors of said College to pledge said revenues to secure bonds or notes issued for such purpose or to refund bonds or notes issued for such purpose; authorizing the investment of the Permanent University Fund in bonds or notes secured by such pledge; making the provisions of this Section cumulative but to prevail in event of conflict with other provisions; providing for calling an election and making an appropriation to defray the expenses thereof.

Have had the same under consideration, and we desire to report it back to the Senate with the recommendation that it do pass and be printed.

BECK, Chairman.

Message from the House

The Chief Clerk of the House was recognized by the President to present the following message:

Hall of the House of Representatives,
Austin, Texas,
June 5, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House

has passed the following bills and resolutions:

H. C. R. No. 203, Providing for suspension of the joint rules to permit the Senate to consider S. B. No. 268 on House Bill Day.

H. C. R. No. 202, Providing for a recess of the Legislature from June 12th to June 30th, 1941.

H. C. R. No. 206, Suspending joint rules for purpose of considering H. B. No. 55.

S. B. No. 494, A bill to be entitled "An Act amending Article 1738 of the Revised Civil Statutes of 1925, providing for the transfer by the Supreme Court of cases from one Court of Civil Appeals to another; and declaring an emergency."

The House has tabled by a vote of 107 yeas, 18 noes:

S. B. No. 33, A bill to be entitled "An Act amending Article 6008 of the Revised Civil Statutes of Texas, as amended by Chapter 120, Acts of the Forty-fourth Legislature, Regular Session, providing for the use of sweet and other natural gas under certain conditions for the manufacture of carbon black; and declaring an emergency."

The House has tabled S. C. R. No. 74, providing for sine die adjournment on June 7th, 1941, by a vote of 70 yeas, 60 noes.

The House has concurred in Senate amendments to H. B. No. 871 by a vote of 125 yeas, 0 noes.

The House has concurred in Senate amendments to H. B. No. 515 by a vote of 125 yeas, 0 noes.

The House has concurred in Senate amendments to H. B. No. 965 by a vote of 122 yeas, 0 noes.

The House has concurred in Senate amendments to H. C. R. No. 92 by a vote of 125 yeas, 0 noes.

The House has concurred in Senate amendments to H. C. R. No. 128 by a vote of 125 yeas, 0 noes.

The House has adopted the Conference Committee report on S. B. No. 22 by a vote of 125 yeas, 0 noes.

The House has adopted the Conference Committee report on H. B. No. 29 by a vote of 110 yeas, 16 noes.

The House has granted the request of the Senate for the appointment of a Conference Committee to consider the differences between the two Houses on S. C. R. No. 66. The fol-

lowing are conferees on the part of the House: Stinson, Carrington, Heflin, Skiles, Hughes.

Respectfully submitted,

E. R. LINDLEY,
Chief Clerk, House of Representatives.

Senate Bill 495 on First Reading

The following bill, submitted as an emergency matter by the Governor, was introduced, read first time, and referred to the Committee on Insurance:

By Senator Van Zandt:

S. B. No. 495, A bill to be entitled "An Act to authorize and empower the Board of Insurance Commissioners of the State of Texas to promulgate special rates and rating plans for Workmen's Compensation, Motor Vehicle and other lines of Casualty insurance, separately or in combination applicable to the construction or operation of National Defense Projects; authorizing the Board to make special fire, windstorm and material damage insurance rates on such projects; to promulgate rules and regulations incident to all such forms of insurance; providing that this Act shall be cumulative of existing laws and applicable only to insurance rates in relation to National Defense Projects; and declaring an emergency."

Senate Bill 496 on First Reading

The following local bill was introduced, read first time, and referred to the Committee on Counties and County Boundaries:

By Senator Beck:

S. B. No. 496, A bill to be entitled "An Act authorizing the qualified voters of Hooks Independent School District situated wholly within Bowie County, a district containing not less than fifty-nine square miles in area, and having an assessed property valuation of not less than Three Hundred Seventy Thousand (\$370,000) Dollars, to determine whether or not any such district shall levy a tax for maintenance and bond purposes, the maximum of which for both of such purposes shall not exceed One and 50/100 (\$1.50) Dollars on the One Hundred (\$100.00) Dollars valuation in any one (1) year; provided that not more than One (\$1.00) Dollar of said tax shall be voted for bond purposes and not more than fifty (50c) cents shall be voted for maintenance purposes;

providing that said tax shall be authorized, levied, assessed and collected under provisions of the law applicable to independent school district taxes; enacting provisions incident and relating to the subject and purpose of this Act; and declaring an emergency."

House Concurrent Resolution 202

Senator Moore called for the consideration at this time of H. C. R. No. 202, received from the House today.

The President laid before the Senate and had read:

H. C. R. No. 202, Providing for a recess of the Legislature from June 12, 1941, to 10:00 o'clock a. m. June 30, 1941.

Senator Moore moved to table the resolution.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—18

Aikin	Moffett
Beck	Moore
Brownlee	Ramsey
Chadick	Shivers
Graves	Smith
Isbell	Stone
Lovelady	Van Zandt
Martin	Weinert
Metcalf	Winfield

Nays—10

Cotten	Lanning
Fain	Lemens
Formby	Mauritz
Hill	Sulak
Kelley	Vick

Absent

York

Absent—Excused

Hazlewood	Spears
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Senate Concurrent Resolution 75

Senator Lovelady offered the following resolution:

Be It Resolved by the Senate of Texas, the House of Representatives concurring, That the Regular Session of the Forty-seventh Legislature stand adjourned sine die at 12:00 o'clock noon, Saturday, June 14, 1941.

LOVELADY,
SMITH.

On motion of Senator Smith, the Senate agreed to consider the resolution at this time.

Senator Moffett offered the following amendment to the resolution:

Amend S. C. R. No. 75 by striking out "Saturday, June 14th" and insert in lieu thereof, "Wednesday, June 11th."

Senator Metcalfe moved to table the amendment.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—23

Beck	Moore
Brownlee	Ramsey
Fain	Shivers
Formby	Smith
Graves	Stone
Hill	Sulak
Kelley	Van Zandt
Lemens	Vick
Lovelady	Weinert
Martin	Winfield
Mauritz	York
Metcalfe	

Nays—6

Aikin	Isbell
Chadick	Lanning
Cotten	Moffett

Absent—Excused

Hazlewood	Spears
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Senator Van Zandt offered the following amendment to the resolution:

Amend S. C. R. No. 75 by substituting the words "16th day of June" for the words "14th day of June."

Senator Lovelady moved to table the amendment.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—14

Aikin	Moffett
Beck	Moore
Cotten	Shivers
Graves	Smith
Isbell	Weinert
Lovelady	Winfield
Metcalfe	York

Nays—12

Brownlee	Lanning
Chadick	Lemens
Fain	Stone
Formby	Sulak
Hill	Van Zandt
Kelley	Vick

Absent

Martin	Ramsey
Mauritz	

Absent—Excused

Hazlewood	Spears
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Senator Moore moved the previous question on the resolution, and the motion was duly seconded.

The main question was ordered by the following vote:

Yeas—15

Beck	Ramsey
Brownlee	Shivers
Fain	Smith
Kelley	Stone
Lovelady	Van Zandt
Martin	Weinert
Moffett	York
Moore	

Nays—13

Aikin	Lanning
Chadick	Lemens
Cotten	Metcalfe
Formby	Sulak
Graves	Vick
Hill	Winfield
Isbell	

Absent

Mauritz

Absent—Excused

Hazlewood	Spears
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Question then recurring on the resolution, yeas and nays were demanded.

The resolution was adopted by the following vote:

Yeas—23

Aikin	Metcalfe
Beck	Moffett
Brownlee	Moore
Chadick	Ramsey
Cotten	Shivers
Fain	Smith
Formby	Stone
Graves	Van Zandt
Isbell	Weinert
Lemens	Winfield
Lovelady	York
Martin	

Nays—5

Hill	Sulak
Kelley	Vick
Lanning	

Absent

Mauritz

Absent—Excused

Hazlewood

Spears

Senate Resolution 157

Senator Mauritz, by unanimous consent, offered at this time the following resolution:

Whereas, There are present in the City of Austin, Miss Blanche Crumpler and Mrs. Montgomery in charge of a group of fine Four-H Club Girls from Beeville, Texas; and

Whereas, This group is interested in seeing the Capitol and sitting in on some of the proceedings of the Senate of Texas and seeing how the democratic process operates; therefore, be it

Resolved, That the Senate of Texas express its appreciation for their presence and interest and that they be granted the privileges of the floor for the day.

The resolution was read, and by unanimous consent, it was considered at this time and was adopted.

House Concurrent Resolution 197

The President laid before the Senate and had read (the resolution having been received from the House today):

H. C. R. No. 197, Authorizing certain corrections in H. J. R. No. 1.

On motion of Senator Aikin and by unanimous consent, the resolution was considered at this time.

The resolution was adopted by the following vote:

Yeas—29

Aikin	Mauritz
Beck	Metcalfe
Brownlee	Moffett
Chadick	Moore
Cotten	Ramsey
Fain	Shivers
Formby	Smith
Graves	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York
Martin	

Absent—Excused

Hazlewood

Spears

House Concurrent Resolution 203

Senator Brownlee moved that the regular order of business be suspended and that H. C. R. No. 203 be taken up for consideration at this time.

The motion prevailed by the following vote:

Yeas—23

Aikin	Mauritz
Brownlee	Metcalfe
Cotten	Moffett
Fain	Smith
Formby	Stone
Graves	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York
Martin	

Nays—3

Chadick
Moore

Shivers

Absent

Beck
Hill

Ramsey

Absent—Excused

Hazlewood

Spears

The President laid before the Senate and had read (the resolution having been received from the House today):

H. C. R. No. 203, Suspending the joint rules to permit consideration in the Senate of S. B. No. 268 on any House Bill day during the remainder of the session.

The resolution was adopted by the following vote:

Yeas—21

Aikin	Mauritz
Brownlee	Metcalfe
Cotten	Moffett
Fain	Smith
Formby	Stone
Graves	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Winfield
Lemens	York
Martin	

Nays—5

Chadick
Lovelady
MooreShivers
Weinert

Beck Absent
Hill Ramsey
Absent—Excused
Hazlewood Spears

Senator Metcalfe moved to reconsider the vote by which the resolution was adopted.

Bills and Resolutions Signed

The President signed in the presence of the Senate, after their caption had been read, the following enrolled bills and resolutions:

S. B. No. 22, A bill to be entitled "An Act providing for the appointment of grand jury bailiffs by the judge of the criminal district court in any county having a population of not less than three hundred twenty-five thousand (325,000) inhabitants, and not more than three hundred ninety thousand (390,000) inhabitants, according to the United States Census of 1940, and all future Federal Census; providing for the salaries of said grand jury bailiffs, the method of payment, and the removal of said grand jury bailiffs; providing certain expenses to be allowed for travel and in connection with the use of the automobiles for official business by said grand jury bailiffs; repealing all laws in conflict; and declaring an emergency."

S. B. No. 494, A bill to be entitled "An Act amending Article 1738 of the Revised Civil Statutes of 1925, providing for the transfer by the Supreme Court of cases from one Court of Civil Appeals to another; and declaring an emergency."

H. C. R. No. 185, Authorizing the Enrolling Clerk of the House of Representatives to correct the caption of H. B. No. 922 to conform to the body of the bill.

H. C. R. No. 190, Authorizing the Enrolling Clerk of the House to make certain corrections in H. B. No. 360.

Messages from the Governor

The President laid before the Senate and had read the following messages from the Governor:

Austin, Texas,
June 5, 1941.

To the Senate of the Forty-seventh Legislature:

I ask the advice, consent and confirmation of the Senate to the following appointments:

To be Members of the Board of Nurse Examiners, for six year terms expiring April 9, 1947:

Mrs. Calvin R. Hanna of Dallas, Dallas County (reappointment);
Miss Laura Cole of Temple, Bell County.

Respectfully submitted,
W. LEE O'DANIEL,
Governor of Texas.

Austin, Texas,
June 5, 1941.

To the Senate of the Forty-seventh Legislature:

I ask the advice, consent and confirmation of the Senate to the following appointments:

To be Members of the Board of Directors of the Agricultural and Mechanical College of Texas:

For six year terms expiring January 10, 1947:

Joe Utay of Dallas, Dallas County;
Fred Felty of San Antonio, Bexar County;

D. S. Buchanan of Austin, Travis County.

To fill the unexpired term of R. C. Schumacher of Houston, deceased, term expiring January 10, 1943:

F. M. Law of Houston, Harris County.

Respectfully submitted,
W. LEE O'DANIEL,
Governor of Texas.

Austin, Texas,
June 5, 1941.

To the Senate of the Forty-seventh Legislature:

I am sorry to inform you that Dr. John A. Hart of Beaumont will be unable to accept appointment on the Board of Medical Examiners, and I am, therefore, withdrawing his name for confirmation.

Respectfully submitted,
W. LEE O'DANIEL,
Governor of Texas.

The messages relative to appointments were referred to the Committee on Nominations of the Governor.

The President then laid before the Senate, and had read, the following message from the Governor:

Austin, Texas,
June 5, 1941.

To the Members of the Forty-seventh Legislature:

I want to remind you again of the serious condition in the old age assist-

ance division of the Department of Public Welfare. I sent you messages regarding this serious condition on April 30th, May 19th and May 26th, but no relief has been forthcoming from you, and the May pension checks were cut \$7.00 each below the amounts due the recipients, and the June checks will be cut \$9.00 each unless you take immediate action to prevent it. Also, the July and August checks will be cut drastically unless you make provision to prevent it.

S. B. No. 490 is supposed to be brought up for consideration in the Senate Friday morning, June 6th, and I recommend favorable action on it by the Senate on that date, and favorable consideration on it by the House members as soon thereafter as possible.

This is an urgent matter, and the old folks of this State are suffering untold hardships on account of these drastic cuts in their pension checks. I urge that you give this matter your immediate favorable attention.

Respectfully submitted,
W. LEE O'DANIEL,
Governor of Texas.

Conference Committee Report on H. B. No. 29

Senator Moffett submitted the following report of the Conference Committee on H. B. No. 29:

Austin, Texas,
June 2, 1941.

Hon. Coke R. Stevenson, President of the Senate,

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: We, your Conference Committee, appointed to adjust the differences between the two Houses on H. B. No. 29, have met and beg leave to recommend that H. B. No. 29 be passed in the form hereto attached.

Respectfully submitted.

SULAK,
FORMBY,
CHADICK,
METCALFE,
MOFFETT,

On the part of the Senate;

FUCHS,
CHAMBERS,
DONALD,
CARRINGTON,
HOYO,

On the part of the House.

H. B. No. 29, A bill to be entitled "An Act to amend Article 1037, of the Revised Criminal Statutes of Texas of 1925, as amended by S. B. No. 222, Chapter 303, Acts of the Forty-first Legislature, Regular Session, relating to weights and measures; prohibiting the sale, use, or possession of false weights, measures, or weighing or measuring devices and weights, measures, or weighing or measuring devices which have not been sealed by a weights and measures official; prohibiting the sale and use of devices which have been condemned for repairs; prohibiting the sale of commodities contrary to law; requiring commodities to be sold by weight, measure, or numerical count; regulating the packing and marking of packages and containers; requiring the net quantity of contents of such packages or containers to be plainly and conspicuously marked on the outside of package or container; requiring the name and address of manufacturer, packer, or distributor on packages; providing for certain variations in weight; prohibiting deceptive pack; providing for standard of fill of containers; providing standards for the sale of milk, cheese, meat and meat food products, including poultry; prohibiting misrepresentation of price or quantity of commodity, thing, or service; providing for establishment of rules and regulations, including certain exemptions; defining certain terms, providing penalties for the enforcement of the Act; repealing laws in conflict; including a savings clause; and declaring an emergency."

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 1037 of the Revised Criminal Statutes of the State of Texas of 1925, as amended by S. B. No. 222, Chapter 303, Acts of the Forty-first Legislature, Regular Session, be and the same is hereby amended to read as follows:

"Article 1037. Any person who, by himself or by his servant or agent, or as the servant or agent of another person, shall offer or expose for sale, sell, use in the buying or selling of any commodity or thing, or for hire or award, or in the computation of any charge for services rendered on the basis of weight or measure, or in the determination of weight or measure when a charge is made for

such determination, or retain in his possession, a false weight or measure or weighing or measuring device, or any weight or measure or weighing or measuring device which has not been sealed by the Commissioner, or his deputy, or inspectors, or by a sealer or deputy sealer of weights and measures within one year; or shall dispose of any condemned weight, measure, or weighing or measuring device contrary to law; or who shall sell or offer or expose for sale less than the quantity he represents of any commodity, thing, or service, or shall take or attempt to take more than the quantity he represents, when, as the buyer, he furnishes the weight, measure, or weighing or measuring device by means of which the amount of any commodity, thing, or service is determined; or who shall keep for the purpose of sale, offer or expose for sale, or sell any commodity in a manner contrary to law; or who shall sell or offer for sale, or use or have in his possession for the purpose of selling or using, any device or instrument to be used to or calculated to falsify any weight or measure, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than Twenty (\$20.00) Dollars or more than One Hundred (\$100.00) Dollars, upon a first conviction in any court of competent jurisdiction; and upon a second or subsequent conviction in any court of competent jurisdiction he shall be punished by a fine of not less than Fifty (\$50.00) Dollars or more than Two Hundred (\$200.00) Dollars.

"Sec. A. The word 'person' as used in this Chapter shall be construed to include any individual and all officers, directors, managers, employees, and other agents of all corporations, companies, partnerships, societies and associations, and such is the legislative intent.

"The words 'weights, measures or (and) weighing or (and) measuring devices' as used in this Chapter, shall be construed to include all weights, scales, beams, measures of every kind, instruments and mechanical devices for weighing or measuring, and any appliances and accessories connected with any or all such instruments.

"The words 'sell' or 'sale' as used in this Chapter, shall be construed to include barter and exchange.

"The term 'false weight or measure, or (and) weighing or measuring device' as used in this Chapter, shall be construed to mean any weight or measure or weighing or measuring device which does not conform as closely as practicable to the official standards, which is not accurate, which is of such construction that it is not reasonably permanent in its adjustment or will not correctly repeat its indications, which facilitates the perpetration of fraud, or which does not conform to the requirements of the Statutes of this State and of the specifications and tolerances promulgated by the Commissioner under authority of Article 5714, Chapter 7, Title 93, of the Revised Civil Statutes of Texas of 1925, as amended.

"Sec. B. It shall be unlawful to sell, except for immediate consumption on the premises, liquid commodities in any other manner except by liquid measure, or commodities not liquid in any other manner than by measure of length, by weight, or by numerical count: Provided, however, that liquid commodities may be sold by weight if there exists a general consumer usage to express the quantity of such commodities by weight and such expression gives accurate information as to the quantity thereof; and that nothing in this Section shall be construed to prevent the sale of fruits, vegetables, and other dry commodities in the standard barrel or by other methods provided for by State or Federal law; or of berries and small fruits in boxes as provided for in the provisions of other Articles of the Statutes; or of vegetables or fruits usually sold by the head or bunch in this manner: Provided further, that nothing in this Section shall be construed to apply to commodities put up in original packages.

"For the purposes of this Section the term 'original package' shall be construed to include a commodity in a package, carton, case, can, barrel, bottle, box, phial, or other receptacle, or in coverings or wrappings or any kind, put up by the manufacturer, which may be labeled, branded, or stenciled, or otherwise marked, or which may be suitable for labeling, branding, or stenciling, or marking otherwise, making one complete package of the commodity. The words 'original package' shall be construed

to include both the wholesale and the retail package.

"For the purposes of this Section the term 'commodities not liquid' shall be construed to include goods, wares, and merchandise, which are not in liquid form and which have heretofore been sold by measure of length, by weight, by measure of capacity, or by numerical count, or which are susceptible of sale in any of these ways.

"Sec. C. (1) It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell, any commodity in package form unless (a) the net quantity of contents, in terms of weight, measure, or numerical count; and (b) the name and place of business of the manufacturer, packer, or distributor shall be plainly and conspicuously marked on the outside of the package: Provided, however, that under Clause (a) of this Section reasonable variations or tolerances shall be permitted, and exemptions as to small packages shall be made; and that under Clause (b) of this Section exemptions as to packages sold on the premises where packed shall be made: And provided further, that this Section shall not be construed to apply to those commodities in package form, the manner of sale of which is specifically regulated by the provisions of other Articles of the Statutes, or to bales of cotton; and that reasonable rules and regulations for the efficient enforcement of this Act, not inconsistent herewith, and including the reasonable variations or tolerances and the exemptions prescribed herein, shall be made by the Commissioner.

"(2) It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell any commodity in package form if its container is so made, formed, or filled, or if it is so wrapped, as to mislead the purchaser as to the quantity of the contents; or if the contents of its container fall below the standard of fill prescribed by regulations promulgated as provided in this Section. For the effectuation of the purposes of this Section the Commissioner is hereby authorized to promulgate regulations fixing and establishing for any commodity in package form a standard of fill of container, which in his best judgment is reasonable with respect to the physical characteristics of the commodity, the size, shape, and physical characteristics of the

container, prevailing methods of handling and transportation of packages, and generally accepted good commercial practice in filling methods; Provided, however, that reasonable variations or tolerances shall be permitted, and that these reasonable variations or tolerances shall be established by regulations made by the Commissioner.

"(3) The words 'in package form' as used in this Chapter, shall be construed to include a commodity in package, carton, case, can, box, bag, barrel, bottle, phial, or on a spool or similar holder, or in a container or band, or in a roll, ball, coil, skein, or other receptacle, or in coverings or wrappings of any kind, put up by the manufacturer, or when put up prior to the order of the commodity, by the vendor, which may be suitable for labeling, branding, or stenciling, or marking otherwise, making one complete package of the commodity. The words 'in package form' shall be construed to include both the wholesale and the retail package: Provided, however, that a box or carton used for shipping purposes containing a number of packages which are individually marked, as hereinbefore provided, will not be required to bear the weight or measure of the contents thereof, nor the name and place of business of the manufacturer, packer or distributor; And provided further, that the words 'in package form' shall not be construed to include paper stationery in tablet form.

"Sec. D. It shall be unlawful for any person to keep for the purpose of sale, offer or expose for sale, or sell, any milk or cream in bottles or other containers of any capacity other than those provided for measures of capacity for liquid in Article 5732, Chapter 7, Title 93, of the Revised Civil Statutes of Texas of 1925, to wit, the gallon, a multiple of the gallon, one-half gallon, quart, pint, one-half pint, and gill.

"Sec. E. It shall be unlawful for any person to keep for the purpose of sale, offer or expose for sale, or sell, except for immediate consumption on the premises, any cheese, meat, or meat food products otherwise than by standard net weight: Provided, however, that any cheese, meat, or meat food products, in package form, shall comply with the requirements of Section C of this Article. For the purposes of this Sec-

tion the following shall be deemed to be meat and meat food products: All fresh, cured, or sale meats, fish, poultry, sausage, chile, head cheese, souse meat, loaf meat, boneless meat, shredded meat, hamburger meat, or any other manufactured, prepared, or processed meat or meat food products. This Section shall be construed to require that all poultry sold by live weight shall be weighed alive at the time of sale, and that any poultry dressed or killed prior to time of sale, whether cooked or uncooked, shall be sold by net weight at time of sale and not by live weight or by the piece.

"The word 'poultry' as used in this Section shall be construed to include turkeys, chickens, ducks, geese, guineas, squabs, and all other domesticated fowls.

"Sec. F. Whenever any commodity is sold on a basis of weight, it shall be unlawful to employ any other weight in such sale than the net weight of the commodity; and all contracts concerning goods sold on a basis of weight shall be understood and construed accordingly. Whenever the weight of a commodity is mentioned in this Chapter, it shall be understood and construed to mean the net weight of the commodity.

"Sec. G. It shall be unlawful for any person to misrepresent the price of a commodity, thing, or service sold or offered or exposed for sale, or to represent the price or the quantity of any commodity, thing, or service sold or offered or exposed for sale in any manner calculated or tending to mislead or deceive an actual or prospective customer. Whenever any price sign, tag, card, poster, or other advertisement displaying the price of any commodity or thing, includes a whole number and a fraction, the figures in the fraction shall be of proportionate size and legibility with those of the whole number.

"Sec. H. There shall be no violation under this Act for any discrepancy between actual weight or volume at the time of sale to the consumer and the weight marked on the container or between the fill of container and the capacity of the container if such discrepancy is due to unavoidable leakage, shrinkage, evaporation, waste or to causes beyond the control of the seller acting in good faith.

"Sec. I. Any person who shall violate any provisions of this Act, or

any of the reasonable rules and regulations promulgated hereunder for which a specific penalty has not been provided, shall be guilty of misdemeanor, and shall be punished by a fine of not less than Twenty (\$20.00) Dollars, or more than One Hundred (\$100.00) Dollars upon a first conviction in any court of competent jurisdiction; and upon a second or subsequent conviction in any court of competent jurisdiction shall be punished by a fine of not less than Fifty (\$50.00) Dollars or more than Two Hundred (\$200.00) Dollars.

Sec. 2. If any Article, Section, provision, subdivision, or part of this Act should be held invalid for any reason, it is the legislative intent that the remainder of the Act shall remain in full force and effect.

Sec. 3. H. B. No. 110, Chapter 53, Acts of the Third Called Session of the Thirty-eighth Legislature, and all other laws or parts of laws in conflict with this Act are hereby repealed.

Sec. 4. The fact that many commodities are being sold in this State in package form without the net quantity of contents being marked thereon, and the further fact of the crowded condition of the calendar create an emergency and an imperative public necessity that the constitutional rule requiring all bills to be read on three several days in each House be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Adjournment

Senator Lanning moved that the Senate adjourn until 10:00 o'clock a. m. Monday, June 9, 1941.

Yeas and nays were demanded, and the motion prevailed by the following vote:

Yeas—18

Beck	Mauritz
Cotten	Metcalfe
Fain	Moore
Formby	Ramsey
Graves	Shivers
Hill	Vick
Lanning	Weinert
Lemens	Winfield
Martin	York

Nays—11

Aikin	Chadick
Brownlee	Isbell

Kelley	Stone
Lovelady	Sulak
Moffett	Van Zandt
Smith	

Absent—Excused

Hazlewood	Spears
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Accordingly, the Senate, at 12:30 o'clock p. m., adjourned until 10:00 o'clock a. m. Monday, June 9, 1941.

SEVENTY-THIRD DAY

(Monday, June 9, 1941)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Stevenson.

The roll was called, and the following Senators were present:

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalf
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York

Absent—Excused

Spears

A quorum was announced present.

Rev. S. B. Culpepper, Chaplain, offered the invocation.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of Thursday, June 5, 1941 was dispensed with and the Journal was approved.

Leave of Absence Granted

Senator Spears was granted leave of absence for today on account of important business, on motion of Senator Graves.

Reports of Standing Committees

Senator Smith offered the following reports:

Committee Room,
Austin, Texas,
June 5, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred

H. B. No. 991, A bill to be entitled "An Act making it unlawful for any person to shoot, take, trap, snare, or in any other manner kill any quail in Bee County, Texas, for a period of two (2) years, except as otherwise herein provided by the authorization of the Game, Fish and Oyster Commission; prescribing a penalty; repealing all laws or parts of laws in conflict herewith; and declaring an emergency."

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

SMITH, Chairman.

Committee Room,
Austin, Texas,
June 5, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred

H. B. No. 995, A bill to be entitled "An Act to declare a closed season on the killing of wild deer and wild turkey in Throckmorton, Shackelford, and Haskell Counties for a period ending February 1, 1946; prescribing a penalty therefor; repealing H. B. No. 198 of the Forty-seventh Legislature; and declaring an emergency."

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

SMITH, Chairman.

Committee Room,
Austin, Texas,
June 5, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred

H. B. No. 689, A bill to be entitled "An Act amending H. B. No. 920 of the Special Laws of the Forty-third Legislature, Regular Session,